VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Non-Domestic Rating; Amusement arcade and premises; method of valuation; appeal allowed in part.

APPEAL NUMBER:	CHG101062206
RE:	Rubicon Pastimes, 12-25 The Front, Hartlepool TS25 1BS (the "appeal property")

BETWEEN:	RUBICON PASTIMES LTD	Appellant
	and	
	Amanda Hitchings BA (Hons) MRICS (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	Wednesday 4 September 2024
BEFORE:	Mrs AE Fielder (Presiding Senior Member) Mr P Phelps (Member)
CLERK:	Miss K Hendry IRRV(Tech)
APPEARANCES:	Mr J Bell of Bell & Bell Rating Surveyors (Appellant's Representative) Mr O Ridley (Respondent's Representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel confirmed the rateable value (RV) £85,500 with effect from 1 April 2017.

Introduction

3. This appeal has been brought in respect of the appeal property which was entered in the 2017 rating list as "Amusement arcade and premises" at RV of £95,500 effective from 1 April 2017.

4. The challenge proposal was submitted by Bell & Bell Rating Surveyors on behalf of Rubicon Pastimes Limited and was received by the Valuation Officer (VO) on 16 May 2023. A revised RV of £34,250 was proposed with effect from 1 April 2017.

5. The VO issued a challenge case decision notice on 25 August 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by the appellant's representative and received by the Tribunal on 23 December 2023.

7. Mr Bell appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), his declaration of truth included a statement that he was not instructed under any conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client's case.

8. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

9. The issue for the panel to determine was the correct RV to be attributed to the appeal property in the 2017 Rating List.

10. The appeal property was an amusement arcade situated in Seaton Carew.

Relevant Law

11. The panel is governed by Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, which provides that:

> 2(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—
>
> (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
>
> (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;
>
> (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

12. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

13. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

14. The appeal property had been valued by the VO on an overall basis with a RV of £95,500 based on £60.00/m^2 with a 33% temporary allowance for building work and 10% allowance for size.

15. Mr Bell stated that the appeal property first appeared in the 2010 rating list at a RV of £42,500 following the merger of three separate assessments. This was based on a Zone A rate of £60.00/m^2 having regard to rents of surrounding shops.

16. With effect from 5 September 2016 the appellant commenced works of alteration at the appeal property which did not finish until 12 August 2017. The RV was reduced to £28,500 as a result of the works. This was based on a 50% reduction for units 12-14 and 25% reduction for units 15-17. Mr Bell argued that the circumstances at 1 April 2017 were the same due to the ongoing works.

17. Mr Bell confirmed he was seeking for a revised RV of £34,250 following the same format as the valuation implemented by the VO from 5 September 2016. On a zoning basis less 50% and 25% and less allowances of 7.5% for size, 10% for shape and 10% for fragmentation.

18. Mr Ridley having inspected the appeal property maintained that it should be valued on an overall basis. He stated that whilst it was valued on a zoned basis in the 2010 rating list, this was when there were three separate hereditaments. When the hereditaments were merged together the property was valued by zoning again, however after reviewing the property he contended that the zoning approach was incorrect. He stated that in the 2017 rating list an adopted approach for amusement arcades was to value them on an overall basis.

19. However, he was in agreement that there should be a 10% allowance for fragmentation. He stated that having reviewed other amusement arcades in the Northeast, there should be a universal rate applied for quantum. Based on the appeal properties size, he stated that a 10% allowance should apply. Therefore, with the addition of 10% for quantum, and 10% for fragmentation, this resulted in an adjusted main space rate of £48.81/m^2. There was also an adjustment of 33% given for major building works which equated to a revised RV of £85,500 with effect from 1 April 2017.

20. Having regard to the evidence before it, the panel held that the RV was not unreasonable based on an overall approach. There was no evidence to support that the appeal property should be valued on a zoned basis just because it had been in the previous 2010 rating list. In the 2010 list it had been valued on a zoning approach prior to being merged together as one unit. Mr Ridley had explained that all amusement arcades in the 2017 rating list were now valued on an overall approach. The panel were not persuaded to interfere with the adopted method of valuation.

21. The panel confirmed a revised RV of £85,500 with effect from 1 April 2017 based on 33% allowance for the ongoing works, 10% allowance for fragmentation and 10% allowance for quantum.

Disposal

22. In view of the above findings the panel confirmed the revised RV from £85,500. The appeal was allowed in part.

23. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject hereditament's entry in the rating list to £85,500 RV with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

24. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date issued to parties: 2 October 2024

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.
